

1 Department of Real Estate
2 P.O. Box 137007
3 Sacramento, CA 95813-7007
4 Telephone: (916) 576-8700

FILED

JAN 17 2023

DEPARTMENT OF REAL ESTATE
By B. Nicholas

8 **DEPARTMENT OF REAL ESTATE**
9 **STATE OF CALIFORNIA**

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11 In the Matter of the Application of:

12 ANDREW JOSEPH DUTRA-TRISTAO,

13 Respondent.
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) DRE No. H-7172 SAC

) **STIPULATION AND WAIVER**

15 It is hereby stipulated by and between ANDREW JOSEPH DUTRA-TRISTAO
16 (“Respondent”), acting in Pro Per, and the Complainant, acting by and through Jason D. Lazark,
17 Counsel for the Department of Real Estate (“Department”), as follows for the purpose of settling
18 and disposing of the Statement of Issues filed on September 8, 2022 in this matter:

19 Respondent acknowledges that Respondent has received and read the Statement of Issues
20 and the Statement to Respondent filed by the Department in connection with Respondent’s
21 application for a real estate salesperson license. Respondent understands that the Real Estate
22 Commissioner (“Commissioner”) may hold a hearing on this Statement of Issues for the purpose of
23 requiring further proof of Respondent’s honesty and truthfulness and to prove other allegations
24 therein, or that he may in his discretion waive the hearing and grant Respondent a restricted real
25 estate salesperson license based upon this Stipulation and Waiver. Respondent also understands
26 that by filing the Statement of Issues in this matter the Commissioner is shifting the burden to
27 Respondent to make a satisfactory showing that Respondent meets all the requirements for issuance

1 of a real estate salesperson license. Respondent further understands that by entering into this
2 Stipulation and Waiver, Respondent will be stipulating that the Commissioner has found that
3 Respondent has failed to make such a showing, thereby justifying the denial of the issuance to
4 Respondent of an unrestricted real estate salesperson license.

5 Respondent hereby admits that the allegations of the Statement of Issues filed against
6 Respondent are true and correct and requests that the Commissioner in his discretion issue a
7 restricted real estate salesperson license to Respondent under the authority of Section 10156.5 of
8 the Business and Professions Code ("the Code").

9 Respondent is aware that by signing this Stipulation and Waiver, Respondent is waiving
10 Respondent's right to a hearing and the opportunity to present evidence at the hearing to establish
11 Respondent's rehabilitation in order to obtain an unrestricted real estate salesperson license if this
12 Stipulation and Waiver is accepted by the Commissioner. However, Respondent is not waiving
13 Respondent's right to a hearing and to further proceedings to obtain a restricted or unrestricted real
14 estate salesperson license if this Stipulation and Waiver is not accepted by the Commissioner.

15 Respondent agrees that by signing this Stipulation and Waiver, the conditions, limitations,
16 and restrictions imposed on Respondent's restricted license, identified below, may be removed only
17 by filing a Petition for Removal of Restrictions ("Petition") with the Commissioner, and that
18 Respondent's Petition must follow the procedures set forth in Government Code Section 11522.

19 Respondent further understands that the restricted real estate salesperson license issued to
20 Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and to the
21 following limitations, conditions and restrictions imposed under authority of Section 10156.6 of the
22 Code:

- 23 1. The restricted real estate salesperson license shall not confer any property right in the
24 privileges to be exercised including the right of renewal, and the Commissioner may by
25 appropriate order suspend the right to exercise any privileges granted under the restricted
26 license in the event of:

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- a. Respondent's conviction (including a plea of nolo contendere)
of a crime which bears a substantial relationship to Respondent's
fitness or capacity as a real estate licensee; or
- b. The receipt of evidence that Respondent has violated provisions of
the California Real Estate Law, the Subdivided Lands Law,
Regulations of the Commissioner, or conditions attaching to the
restricted license.

2. Respondent shall not be eligible to petition for the issuance of an unrestricted real estate
license nor the removal of any of the conditions, limitations, or restrictions attaching to the
restricted license until two (2) years have elapsed from the date of issuance of the restricted
license to Respondent. Respondent shall not be eligible to apply for any unrestricted
licenses until all restrictions attaching to the license have been removed.

3. With the application for license, or with the application for transfer to a new employing
broker, Respondent shall submit a statement signed by the prospective employing broker
on a form approved by the Department wherein the employing broker shall certify as
follows:

- a. That the broker has read the Statement of Issues which is the basis
for the issuance of the restricted license; and
- b. That the broker will carefully review all transaction documents
prepared by the restricted licensee and otherwise exercise close
supervision over the licensee's performance of acts for which a
license is required.

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1 4. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by
2 sending a certified letter to the Commissioner at the Department of Real Estate, Post Office
3 Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of
4 Respondent's arrest, the crime for which Respondent was arrested and the name and address
5 of the arresting law enforcement agency. Respondent's failure to timely file written notice
6 shall constitute an independent violation of the terms of the restricted license and shall be
7 grounds for the suspension or revocation of that license.

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10 11/29/2022

11 DATED

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JASON D. LAZARK, Counsel
DEPARTMENT OF REAL ESTATE

Respondent has read this Stipulation and Waiver, discussed it with Respondent's counsel,
and its terms are understood by Respondent and are agreeable and acceptable to Respondent.
Respondent understands that Respondent is waiving rights given to Respondent by the
Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and
11513 of the Government Code), and Respondent willingly, intelligently and voluntarily waives
those rights, including the right of a hearing on the Statement of Issues at which Respondent would
have the right to cross-examine witnesses against Respondent and to present evidence in defense
and mitigation of the charges.

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1 Respondent further agrees to send the original signed Stipulation by mail to the following
2 address no later than one (1) week from the date the Stipulation is signed by Respondent and
3 Respondent's attorney: *Department of Real Estate, Legal Section, P.O. Box 137007,*
4 *Sacramento, California 95813-7007.* Respondent understands and agrees that if he fails to return
5 the original signed Stipulation by the due date, Complainant retains the right to set this matter for
6 hearing.

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8 11/29/22
9 DATED

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11 
12 ANDREW JOSEPH DUTRA-TRISTAO,
13 Respondent

14 I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver
15 signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to
16 the honesty and truthfulness of Respondent need not be called and that it will not be inimical to the
17 public interest to issue a restricted real estate salesperson license to Respondent.

18 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be
19 issued to Respondent, if Respondent has otherwise fulfilled all of the statutory requirements for
20 licensure. The restricted license shall be limited, conditioned, and restricted as specified in the
21 foregoing Stipulation and Waiver.

22 This Order is effective immediately.

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24 IT IS SO ORDERED 1-6-23.

25 DOUGLAS R. McCAULEY
26 REAL ESTATE COMMISSIONER

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